



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,410	03/10/2004	Duane Langenwalter	THI006USU	4112
45180	7590	03/14/2006	EXAMINER	
GRIMES & BATTERSBY, LLP 488 MAIN AVENUE, THIRD FLOOR NORWALK, CT 06851			FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER

3679

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,410

Applicant(s)

LANGENWALTER, DUANE

Examiner

Michael P. Ferguson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 27, 2006 has been entered.

Election/Restrictions

2. Claims 17 and 18 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 1, 2005.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlson (US 803,741).

As to claim 1, Carlson discloses a versatile and fully functional fencing system for secure outdoor installation comprising:

Art Unit: 3679

a stake **5** configured to be driven into the ground, the stake including a hollow stake sleeve, the stake sleeve having a substantially flat upper surface;

a post **1**, the post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve; and

a structural fencing component including a post attachment collar **11,15** disposed on an edge thereof, the post attachment collar having a substantially flat lower surface to permit the post attachment collar to sit upon the upper surface of the stake sleeve and be retained thereon by means of gravity (post attachment collar **11,15** is capable of sitting on the upper surface of stake **5**), the post attachment collar having an opening therethrough of a size and shape complementary to the post so as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post (post attachment collar **11,15** has an opening capable of allowing fencing components to be rotationally adjusted relative to post **1**, prior to tightening of bolts **13,17**; Figures 1,2,4 and 6).

Applicant is reminded that **process limitations are given little patentable weight in product claims**. The patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production. " In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

As to claim 2, Carlson discloses a system wherein the structural fencing component is selected from the group consisting of base units, gate units and end units (Figure 1).

As to claim 10, Carlson discloses a system wherein the posts 1 and the structural components include decorative accents 3 (Figure 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson in view of Gibbs et al. (US 6,811,145).

As to claims 11 and 13, Carlson fails to disclose a system wherein the structural components and the posts are manufactured from tubular steel and wherein the structural components and the posts are covered with a powder coated finish.

Gibbs et al. teach a fencing system wherein structural components and posts are manufactured from tubular steel and wherein the structural components and the posts are covered with a powder coated finish; the steel material providing for a strong, durable fence element, and the powder coated finish providing for enhanced corrosion resistance (column 2 lines 22-34). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Carlson to have components manufactured from powder coated tubular

Art Unit: 3679

steel as taught by Gibbs et al. in order to provide for a strong, durable fence element having enhanced corrosion resistance.

As to claim 12, Carlson discloses a system wherein the structural components are welded in assembly.

As to claim 14, Carlson discloses a system wherein the structural components, posts **1** and stakes **5** are removably attached to each other by frictional contact therebetween (Figure 2).

As to claim 15, Carlson discloses a system wherein a stake **5** is wedge-shaped, and a stake sleeve comprises a cylindrical cavity therein (Figure 2).

7. Claims 1-10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravert (US 1,426,215) in view of Carlson.

As to claim 1, Ravert discloses a versatile and fully functional fencing system capable of secure outdoor installation comprising:

a footing **12** configured to be fastened to the ground;

a post **B**, the post being adapted to be retained by the footing; and

a structural fencing component including a post attachment collar **6,7** disposed on an edge thereof, the post attachment collar having a substantially flat lower surface to permit the post attachment collar to sit upon the upper surface of the footing and be retained thereon by means of gravity (post attachment collar **7** is capable of sitting on the upper surface of footing **12**), the post attachment collar having an opening therethrough of a size and shape complementary to the post so as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect

Art Unit: 3679

adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post (Figures 1 and 4).

Ravert discloses a system comprising a footing adapted to be fastened to the ground, and a post being adapted to be retained by the footing instead of a stake including a hollow stake sleeve, the stake sleeve having a substantially flat upper surface; and a post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve.

Carlson teaches a fencing a system a footing 6 adapted to be fastened to the ground, and a post 1 being adapted to be retained by the footing, or a stake 5 including a hollow stake sleeve, the stake sleeve having a substantially flat upper surface; and the post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve (Figures 2 and 3, page 1 lines 49-54). Inasmuch as the references disclose footing and stakes as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Applicant is reminded that **process limitations are given little patentable weight in product claims**. The patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on

Art Unit: 3679

its method of production. " In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

As to claim 2, Ravert discloses a system wherein the structural fencing component is selected from the group consisting of base units, gate units and end units (Figure 1).

As to claim 3, Ravert discloses a system wherein the base units **A** include a vertical element **8** on either side thereof, and wherein the post attachment collars **6,7** are disposed on the vertical elements (Figure 3).

As to claim 4, Ravert discloses a system wherein the post attachment collars **6,7** comprise a pair of post rings disposed at the top and bottom of both of the vertical elements **8** (Figure 3).

As to claim 5, Ravert discloses a system wherein the gate units comprise a pair of complementary doors **D** each having an outside edge, wherein the outside edges terminate in a vertical element **15** and wherein the post attachment collars **6,7** are disposed on the vertical elements (Figures 2 and 4).

As to claim 6, Ravert discloses a system wherein the post attachment collars **6,7** comprise a pair of post hinges disposed at the top and bottom of the vertical elements **15**, the post hinges including a post ring and a hinge element to allow the complementary doors **D** to open and close (Figures 2 and 4).

As to claim 7, Ravert discloses a system wherein the end units **A** include a vertical element **8** on one side thereof and wherein the post attachment collars **6,7** are disposed on the vertical elements (Figure 3).

Art Unit: 3679

As to claim 8, Ravert discloses a system wherein the post attachment collars **6,7** comprise a pair of post rings disposed on the top and bottom the vertical element **8** (Figure 3).

As to claim 9, Ravert discloses a system wherein the end unit **A** includes a stake pin **14** disposed on the side opposite the vertical element, the stake pin being adapted to being inserted into the ground so as to anchor the end unit in position (Figure 4).

As to claim 10, Ravert discloses a system wherein the posts **B** and the structural components include decorative accents (Figure 4).

As to claims 16, Ravert discloses a versatile and fully functional fencing system capable of secure outdoor installation comprising:

- a footing **12** configured to be fastened to the ground;
- a cylindrical post **B**, the post being adapted to be retained by the footing; and
- a structural fencing component including a post attachment collar **6,7** disposed on an edge thereof, the post attachment collar having a substantially flat lower surface to permit the post attachment collar to sit upon the upper surface of the stake sleeve and be retained thereon by collar of gravity (post attachment collar **7** is capable of sitting on the upper surface of footing **12**), the post attachment collar having an opening therethrough of a size and shape complementary to the post so as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post, the structural fencing

Art Unit: 3679

component being chosen from the group consisting of base units, gate units and end units, wherein:

the base units **A** include a vertical element **8** on either side thereof, and wherein the post attachment collar comprises pair of post rings disposed at the top and bottom of both of the vertical elements;

the gate units **D** comprise a pair of complementary doors each having an outside edge, wherein the outside edges terminate in a vertical element and wherein the post attachment collar **6,7** comprise a pair of post hinges disposed at the top and bottom of the vertical elements, the post hinges including a post ring and a hinge element to allow the complementary doors to open and close; and

the end units **A** include a vertical element **8** on one side thereof, wherein the post attachment collar **6,7** comprise a pair of post rings disposed at the top and bottom of the vertical element, and further wherein the end unit further includes a stake pin **14** disposed on the side opposite the vertical element, the stake pin being adapted to being inserted into the ground so as to anchor the end unit in position (Figures 1-4).

Ravert discloses a system comprising a footing adapted to be fastened to the ground, and a post being adapted to be retained by the footing instead of a wedge-shaped stake including a stake sleeve comprising a cylindrical cavity within the stake, the stake sleeve having a substantially flat upper surface; and a cylindrical post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve by means of frictional contact therebetween.

Carlson teaches a fencing a system a footing 6 adapted to be fastened to the ground, and a cylindrical post 1 being adapted to be retained by the footing, or a wedge-shaped stake 5 including a stake sleeve comprising a cylindrical cavity within the stake, the stake sleeve having a substantially flat upper surface; and the post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve by means of frictional contact therebetween (Figures 2 and 3, page 1 lines 49-54). Inasmuch as the references disclose footing and stakes as art recognized equivalents, it would have been obvious to one of ordinary skill in the exercise art to substitute one for the other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

Applicant is reminded that **process limitations are given little patentable weight in product claims**. The patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production. " In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

8. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ravert in view of Carlson as applied to claim 1 above, and further in view of Gibbs et al.

As to claims 11 and 13, Ravert in view of Carlson fails to disclose a system wherein the structural components and the posts are manufactured from tubular steel and wherein the structural components and the posts are covered with a powder coated finish.

Gibbs et al. teach a fencing system wherein structural components and posts are manufactured from tubular steel and wherein the structural components and the posts are covered with a powder coated finish; the steel material providing for a strong, durable fence element, and the powder coated finish providing for enhanced corrosion resistance (column 2 lines 22-34). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Ravert in view of Carlson to have components manufactured from powder coated tubular steel as taught by Gibbs et al. in order to provide for a strong, durable fence element having enhanced corrosion resistance.

As to claim 12, Ravert discloses a system wherein the structural components are welded in assembly.

As to claim 14, Carlson teaches a system wherein the structural components, posts **1** and stakes **5** are removably attached to each other by frictional contact therebetween (Figure 2).

As to claim 15, Carlson teaches a system wherein a stake **5** is wedge-shaped, and a stake sleeve comprises a cylindrical cavity therein (Figure 2).

9. Claims 1-4, 7-10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friend (US 2,074,688) in view of Carlson.

As to claim 1, Friend discloses a versatile and fully functional fencing system for secure outdoor installation comprising:

a stake post **26** configured to be driven into the ground; and

a structural fencing component including a post attachment collar **15** disposed on an edge thereof, the post attachment collar having a substantially flat lower surface to permit the post attachment collar to sit upon the upper surface of a stake sleeve and be retained thereon by collar of gravity (post attachment collar **15** is capable of sitting on the upper surface of a stake sleeve), the post attachment collar having an opening therethrough of a size and shape complementary to a post so as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to a post (post attachment collar **15** has an opening capable of allowing fencing components to be rotationally adjusted relative to post **26**, prior to tightening of bolts; Figures 1 and 4-6).

Friend fails to disclose a system comprising a stake including a hollow stake sleeve, the stake sleeve having a substantially flat upper surface; and a separate post, the post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve.

Carlson teaches a fencing system comprising a stake **5** including a hollow stake sleeve, the stake sleeve having a substantially flat upper surface; and a separate post **1**, the post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve; the separate stake and post enabling the post to be interchangeably used with a stake or a footing, providing for a more cost-efficient, multi-functional post. (Figure 2, page 1 lines 49-54). Accordingly, it would have been obvious to one having ordinary skill in the

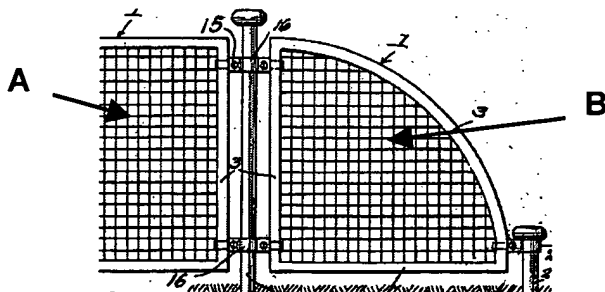
Art Unit: 3679

art at the time the invention was made to modify a system as disclosed by Friend to have a separate stake and post as taught by Carlson in order to enable the post to be interchangeably used with a stake or a footing, providing for a more cost-efficient, multi-functional post.

Applicant is reminded that **process limitations are given little patentable weight in product claims**. The patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production." In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

As to claim 2, Friend discloses a system wherein the structural fencing component is selected from the group consisting of base units, gate units and end units (Figure 1).

As to claim 3, Friend discloses a system wherein the base units **A** (Figure 1 reprinted below with annotations) include a vertical element **3** on either side thereof, and wherein the post attachment collar **15** are disposed on the vertical elements (Figure 1).



As to claim 4, Friend discloses a system wherein the post attachment collar **15** comprise a pair of post rings disposed at the top and bottom of both of the vertical elements **3** (Figure 1).

As to claim 7, Friend discloses a system wherein the end units **B** include a vertical element **3** on one side thereof and wherein the post attachment collar **15** are disposed on the vertical elements (Figure 1).

As to claim 8, Friend discloses a system wherein the post attachment collar **15** comprise a pair of post rings disposed on the top and bottom the vertical element **3** (Figure 1).

As to claim 9, Friend discloses a system wherein the end unit **B** includes a stake pin **25** disposed on the side opposite the vertical element **3**, the stake pin being adapted to being inserted into the ground so as to anchor the end unit in position (Figure 1).

As to claim 10, Friend discloses a system wherein the posts **26** and the structural components include decorative accents (Figure 1).

As to claims 16, Friend discloses a versatile and fully functional fencing system for secure outdoor installation comprising:

- a wedge-shaped stake post **26** configured to be driven into the ground; and
- a structural fencing component including a post attachment collar **15** disposed on an edge thereof, the post attachment collar having a substantially flat lower surface to permit the post attachment collar to sit upon the upper surface of the stake sleeve and be retained thereon by collar of gravity (post attachment collar **15** is capable of sitting on the upper surface of a stake sleeve), the post attachment collar having an opening

Art Unit: 3679

therethrough of a size and shape complementary to a post so as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post (post attachment collar **15** has an opening capable of allowing fencing components to be rotationally adjusted relative to post **26**, prior to tightening of bolts; Figures 1 and 4-6), the structural fencing component being chosen from the group consisting of base units, gate units and end units, wherein:

the base units **A** include a vertical element **3** on either side thereof, and wherein the post attachment collar comprises pair of post rings disposed at the top and bottom of both of the vertical elements;

the gate units comprise a pair of complementary doors each having an outside edge, wherein the outside edges terminate in a vertical element and wherein the post attachment collar comprise a pair of post hinges disposed at the top and bottom of the vertical elements, the post hinges including a post ring and a hinge element to allow the complementary doors to open and close; and

the end units **B** include a vertical element **3** on one side thereof, wherein the post attachment collar comprise a pair of post rings disposed at the top and bottom of the vertical element, and further wherein the end unit further includes a stake pin **25** disposed on the side opposite the vertical element, the stake pin being adapted to being inserted into the ground so as to anchor the end unit in position (Figure 1).

Friend fails to disclose a system comprising a stake including a stake sleeve comprising a cylindrical cavity within the stake, the stake sleeve having a substantially flat upper surface; and a separate post, the post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve by means of frictional contact therebetween.

Carlson teaches a fencing system comprising a stake 5 including a stake sleeve comprising a cylindrical cavity within the stake, the stake sleeve having a substantially flat upper surface; and a separate post 1, the post being complementary in cross-sectional shape to the hollow stake sleeve to thereby permit the post to be slidably inserted within and retained by the stake sleeve by means of frictional contact therebetween; the separate stake and post enabling the post to be interchangeably used with a stake or a footing, providing for a more cost-efficient, multi-functional post. (Figure 2, page 1 lines 49-54). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Friend to have a separate stake and post as taught by Carlson in order to enable the post to be interchangeably used with a stake or a footing, providing for a more cost-efficient, multi-functional post.

Applicant is reminded that **process limitations are given little patentable weight in product claims**. The patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on

its method of production. “ In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

10. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable Friend in view of Carlson as applied to claim 1 above, and further in view of Gibbs et al.

As to claims 11 and 13, Friend in view of Carlson fails to disclose a system wherein the structural components and the posts are manufactured from tubular steel and wherein the structural components and the posts are covered with a powder coated finish.

Gibbs et al. teach a fencing system wherein structural components and posts are manufactured from tubular steel and wherein the structural components and the posts are covered with a powder coated finish; the steel material providing for a strong, durable fence element, and the powder coated finish providing for enhanced corrosion resistance (column 2 lines 22-34). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a system as disclosed by Friend in view of Carlson to have components manufactured from powder coated tubular steel as taught by Gibbs et al. in order to provide for a strong, durable fence element having enhanced corrosion resistance.

As to claim 12, Friend discloses a system wherein the structural components are welded in assembly.

As to claim 14, Carlson teaches a system wherein the structural components, posts 1 and stakes 5 are removably attached to each other by frictional contact therebetween (Figure 2).

As to claim 15, Carlson teaches a system wherein a stake 5 is wedge-shaped, and a stake sleeve comprises a cylindrical cavity therein (Figure 2).

Response to Arguments

11. Applicant's arguments filed February 27, 2006 have been fully considered but they are not persuasive.

As to claims 1 and 16, Attorney argues that:

Carlson does not disclose a fencing system wherein the post attachment collar has an opening therethrough of a size and shape complementary to the post so *as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post.*

Examiner disagrees. As to claims 1 and 16, Carlson discloses a fencing system wherein the post attachment collar 11,15 has an opening therethrough of a size and shape complementary to the post 1 so as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post (post attachment collar 11,15 has an opening capable of allowing fencing components to be rotationally adjusted relative to post 1, prior to tightening of bolts 13,17; Figures 1,4 and 6).

As to claims 1 and 16, Attorney argues that:

Ravert does not disclose a versatile and fully functional fencing system *for secure outdoor installation*.

Examiner disagrees. As to claim 1, Ravert discloses a versatile and fully functional fencing system capable of secure outdoor installation.

As to claims 1 and 16, Attorney argues that:

Friend does not disclose a fencing system wherein the post attachment collar has an opening therethrough of a size and shape complementary to a post so as *to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post*.

Examiner disagrees. As to claims 1 and 16, Friend discloses a fencing system wherein the post attachment collar **15** has an opening therethrough of a size and shape complementary to a post so as to permit the fencing component to be slidably attached to and engaged by the post to thereby connect adjacent structural fencing components to each other while allowing the fencing components to be rotationally adjusted relative to the post (post attachment collar **15** has an opening capable of allowing fencing components to be rotationally adjusted relative to post **26**, prior to tightening of bolts; Figures 1 and 4-6).

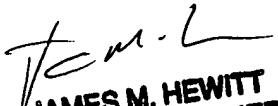
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MPF
03/07/06


JAMES M. HEWITT
PRIMARY EXAMINER